TITLE 9. HEALTH SERVICES

CHAPTER 1. DEPARTMENT OF HEALTH SERVICES ADMINISTRATION

ARTICLE 5. SLIDING FEE SCHEDULES

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R9-1-501. Definitions

In this Article, unless otherwise specified:

1. 1. "Administrative fee" means a fee payable by an uninsured individual that is established and charged according to R9-1-506(E).
2. 2. "AHCCCS" means the Arizona Health Care Cost Containment System.
3. 3. "Business day" means the same as in A.R.S. § 10-140.
4. 4. "Calendar year" means January 1 through December 31.
5. 5. "Child" means an individual under age 19.
6. 6. "Consideration" means valuable compensation for something received or to be received.
7. 7. "Correctional facility" means the same as in A.R.S. § 13-2501.

.8. "Costs of producing rental income" means payments made by a rental-income recipient that are attributable to the premises or the portion of the premises generating the income, including payments for:

.a. Property taxes,
.b. Insurance premiums,
.c. Mortgage principal and interest,
.d. Utilities, and
.e. Maintenance and repair.

9. "Costs of producing self-employment income" means payments made by a self-employment-income recipient that are attributable to generating the income, including payments for:

a. Equipment, machinery, and real estate;
.b. Labor;
.c. Inventory;
.d. Raw materials;
.e. Insurance premiums;
.f. Rent; and
.g. Utilities.

1. 10. “Current federal poverty guidelines” means the most recent annual update of the U.S. Department of Health and Human Services' Poverty Guidelines published in the Federal Register.

.11. “Deduction” means a dollar amount subtracted from a payment, before an individual receives the payment, for:

.a. Federal income tax,

.b. Social Security tax,

.c. Medicare tax,

.d. State income tax,

.e. Insurance other than OASDI,

.f. Pension, or

.g. Other dollar amounts required by law or authorized by the individual to be subtracted.

1. 12. “Department” means the Department of Health Services.

.13. “Detention facility” means a place of confinement, including:

.a. A juvenile facility under the jurisdiction of:

.i. A county board of supervisors, or

.ii. A county jail district authorized by A.R.S. Title 48, Chapter 25;

.b. A juvenile secure care facility under the jurisdiction of the Department of Juvenile Corrections; or

.c. A facility for individuals who are not United States citizens and who are in the custody of the U.S. Immigration and Customs Enforcement, Department of Homeland Security.

14. “Earned income” means work-related payments received by an individual, including:

.a. Wages,

.b. Commissions and fees,

.c. Salary,

.d. Profit from self-employment,

.e. Profit from rent received from an individual or entity, and

.f. Any other work-related monetary payments received by an individual.

1. 15. “Family income” means the dollar amount determined according to R9-1-503(B).

2. 16. “Family member” means an individual, determined according to R9-1-502, whose income is included in family income.

.17. “Fee percentage” means a part of a provider's usual charges for medical services that is:

.a. Expressed in hundredths, and

.b. Established by a provider in a sliding fee schedule for medical services rendered to an uninsured individual.

1. 18. “Fetus” means the same as in A.R.S. § 36-2152.

.19. “Flat fee” means a dollar amount that is:

.a. Established by a provider in a sliding fee schedule for a medical service or group of medical services rendered to an uninsured individual, and

.b. Less than the provider's usual charges for the medical service or group of medical services.

1. 20. “Gift” means money, real property, personal property, a service, or anything of value other than unearned income for which the recipient does not provide consideration of equal or greater value.

2. 21. “Hospital services” means the same as in A.A.C. R9-10-201.

3. 22. “Income” means combined earned and unearned income.

4. 23. “Inpatient services” means hospital services provided to an individual who will receive the services for 24 consecutive hours or more.

5. 24. “Interrupted income” means income that stops for at least 30 continuous days during the current calendar year and then resumes.

6. 25. “KidsCare” means the children's health insurance program, a federally funded program administered by AHCCCS under A.R.S. Title 36, Chapter 29, Article 4.

.26. “Lowest contracted charge” means the smallest reimbursement a provider has agreed to accept for a medical service:

.a. Determined by the provider's review of all the contracts between the provider and third party payors as defined in

.A.R.S. § 36-125.07(C), that:

.i. Cover the medical service, and

.ii. Are in effect at the time the medical service is provided to an uninsured individual; and

.b. Subject to limitations of federal or state laws, rules, or regulations.

27. “Medical services” means the same as in A.R.S. § 36-401.

1. 28. “Medicare tax” means the dollar amount subtracted from a payment for the health care insurance program for the aged and disabled under Title XVIII of the Social Security Act, 42 USC 1395 et seq.

2. 29. “New income” means income that begins at least 30 days after the start of the current calendar year.

3. 30. “OASDI” means old age, survivors, and disability insurance.

.31. “Profit” means the remainder after subtracting:

.a. The costs of producing rental income from the rent received from an individual or entity, or

.b. The costs of producing self-employment income from the self-employment.

32. “Provider” means an individual or entity that:

.a. Provides medical services;

.b. Participates in a program that requires participants to use a sliding fee schedule, such as a program authorized under A.R.S. §§ 36-104(16), 36-2907.06, 36-2172, or 36-2174;

.c. Includes:

.i. A dentist licensed under A.R.S. Title 32, Chapter 11;
.ii. A physician licensed under A.R.S. Title 32, Chapter 13 or Chapter 17;
.iii. A registered nurse practitioner defined in A.R.S. § 32-1601 and licensed under A.R.S. Title 32, Chapter 15;
.iv. A physician assistant licensed under A.R.S. Title 32, Chapter 25 and practicing according to A.R.S. § 322531;
.v. A health care institution licensed under A.R.S. Title 36, Chapter 4; or
.vi. An office or facility that is exempt from licensing under A.R.S. § 36-402(A)(3); and
.d. Excludes an individual or entity when the individual or entity provides:

i. Inpatient services,
ii. Medical services at a correctional facility, or
iii. Medical services at a detention facility.

1. 33. "Secure care" means the same as in A.R.S. § 41-2801.
2. 34. "Self employment" means earning income from one's own business, trade, or profession rather than receiving a salary or wages from an employer.
3. 35. "Sliding fee" means flat fee or fee percentage that increases or decreases based on one or more factors.
.36. "Sliding fee schedule" means a document containing a provider's flat fees or fee percentages based on:
.a. Family members determined according to R9-1-502, and
.b. Family income determined according to R9-1-503.

1. 37. "Social Security tax" means the dollar amount subtracted from a payment for OASDI under Title II of the Social Security Act, 42 USC 401 et seq.
.38. "State health benefits risk pool" means:
.a. A state-established organization qualifying under 26 USC 501(c)(26);
.b. A state-established qualified high risk pool described in Section 2744(c)(2) of the Public Health Service Act, 42 USC 300gg-44(c)(2); or
.c. A state-sponsored arrangement, for which the state specifies the membership, primarily established and maintained to provide health insurance coverage for state residents with a medical condition or a history of a medical condition that:

i. Prevents them from obtaining coverage for the condition through insurance or from a health maintenance organization, or
ii. Enables them to obtain coverage for the condition only at a rate substantially more than the rate available through the state-sponsored arrangement.

1. 39. "Support payment" means a dollar amount, received at regular intervals by an individual, for food, shelter, furniture, clothing, and medical expenses.
2. 40. "Terminated income" means income received during the current calendar year that stops and will not resume.
3. 41. "Training stipend" means a dollar amount, received at regular intervals by an individual, during a course or program for the development of the individual's skills.
.42. "Unearned income" means payments received by an individual that are not gifts and not earned income, including:

.a. Unemployment insurance;
.b. Workers' compensation;
.c. Disability payments;
.d. Social Security payments;
.e. Public assistance payments, excluding food stamps;
.f. Periodic insurance or annuity payments;
.g. Retirement or pension payments;
.h. Strike benefits from union funds;
.i. Training stipends;
.j. Child support payments;
.k. Alimony payments;
.l. Military family allotments or other support payments from a relative or other individual not residing with the recipient;
.m. Investment income;
.n. Royalty payments;
.o. Periodic payments from estates or trusts; and
.p. Any other monetary payments received by an individual that are not gifts, earned income, capital gains, lump-sum inheritance or insurance payments, or payments made to compensate for personal injury.

43. “Uninsured individual” means an individual who does not have health care coverage under any of the following:

.a. A group health plan as defined in Section 2792(a)(1) of the Public Health Service Act, 42 USC 300gg-91(a)(1), including a small employer's group health plan under A.R.S. Title 20, Chapter 13 or under the laws of another state;
.b. A church plan as defined in section 3(33) of the Employee Retirement Income Security Act of 1974 (ERISA), 29 USC 1002(33);
.c. Medicare, the health insurance program for the aged and disabled under Title XVIII of the Social Security Act, 42 USC 1395 et seq.;
.d. Medicaid, the program that pays for medical assistance for certain individuals and families with low incomes and resources, through AHCCCS or another state's Medicaid agency, under Title XIX of the Social Security Act, 42 USC 1396 et seq., excluding a state program for distribution of pediatric vaccines under 42 USC 1396s;
.e. Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) or Tricare, the medical and dental care programs for members of the armed forces, certain former members, and their dependents under 10 USC 1071 et seq. and 32 CFR 199;
.f. A medical care program of the Indian Health Service or of a tribal organization;
.g. The Federal Employees Health Benefits Program for U.S. government employees, certain former employees, and their family members under 5 USC 8901 et seq. and 5 CFR 890 and 891;
.h. Peace Corps plans under Section 5(e) of the Peace Corps Act, 22 USC 2504(e), including:
.i. Medical and dental care for Peace Corps applicants, Peace Corps volunteers, and minor children living with Peace Corps volunteers under 32 CFR 728.59;
.ii. Form PC-127C authorization for payment for evaluation of the Peace Corps related conditions of former Peace Corps volunteers;

.iii. Treatment of the Peace Corps related conditions of former Peace Corps volunteers under 32 CFR 728.53; and

.iv. CorpsCare coverage for the non-Peace Corps related conditions of former Peace Corps volunteers and their dependents.

.i. A state health benefits risk pool;

.j. An individual policy or contract issued by:

.i. An insurer for medical expenses, including a preferred provider arrangement;

.ii. A health care services organization under A.R.S. Title 20, Chapter 4, Article 9 or a health maintenance organization as defined in Section 2792(b)(3) of the Public Health Service Act, 42 USC 300gg-91(b)(3); or

.iii. A nonprofit hospital, medical, dental, or optometric service corporation as defined in A.R.S. § 20-822, including Blue Cross Blue Shield of Arizona, or organized under the laws of another state;

.k. An individual policy or contract made available through the Healthcare Group of Arizona administered by AHCCCS under A.R.S. §§ 36-2912, 36-2912.01, and 36-2912.02;

.l. A health insurance plan of a state or of a political subdivision as defined in A.R.S. § 35-511 or determined under the laws of another state;

.m. A policy or contract issued to a member of a bona fide association as defined in section 2791(d)(3) of the Public Health Service Act, 42 USC 300gg-91(d)(3); or

.n. KidsCare or another state's children's health insurance program under Title XXI of the Social Security Act, 42 USC 1397aa et seq.

44. "Variable income" means income in a dollar amount that changes from payment to payment.

R9-1-502. Family Member Determination

A provider shall determine the family members of an uninsured individual seeking medical services.

1. A family with one member consists of:
   a. A non-pregnant child who does not live with:
      i. A parent;
      ii. A spouse;
      iii. An individual with whom the child has a common biological or adopted child;
      .iv. A biological or adopted child; or
      .v. A biological or adopted child of an individual with whom the child has a common biological or adopted child; or
   b. A non-pregnant individual who is at least age 19 who does not live with:
      i. A spouse;
      ii. An individual with whom the individual who is at least age 19 has a common biological or adopted child;
      iii. A biological or adopted child; or
      iv. A biological or adopted child of an individual with whom the individual who is at least age 19 has a common biological or adopted child.
2. A family with two or more members consists of:

.a. An individual and:

.i. The biological or adopted children who live with the individual; and
.ii. If the individual or a child under subsection (2)(a)(i) is pregnant, each fetus;
.b. Two individuals, who have a common biological or adopted child and who live together, and:
.i. The common biological or adopted children living with the two individuals;
.ii. The biological or adopted children of either individual living with the two individuals; and
.iii. If an individual or a child under subsection (2)(b)(i) or subsection (2)(b)(ii) is pregnant, each fetus; or
.c. Two individuals, who are married to each other, who live together, and who do not have a common biological or adopted child, and

i. The biological or adopted children of either individual living with the two individuals; and
ii. If an individual or a child under subsection (2)(c)(i) is pregnant, each fetus.

R9-1-503. Family Income Determination

A. A provider shall establish flat fees or fee percentages for medical services rendered to uninsured individuals with family incomes, including earned and unearned income, equal to or less than 200 percent of the current federal poverty guidelines.
B. A provider shall determine an uninsured individual's family income by:
1. 1. Multiplying a weekly payment received by a family member, before deductions, by 52;
2. 2. Multiplying a biweekly payment received by a family member, before deductions, by 26;
3. 3. Multiplying a monthly payment received by a family member, before deductions, by 12;
.4. For variable income received by a family member:
.a. Adding at least four payments, before deductions;
.b. Dividing the sum obtained in subsection (B)(4)(a) by the number of payments included; and
.c. Multiplying the quotient obtained in subsection (B)(4)(b) by 52, 26, or 12 as applicable;

5. Counting the actual payments received by a family member, before deductions, for:
.a. Interrupted income,
.b. New income, and
.c. Terminated income; and

6. Adding the dollar amounts calculated under subsections (B)(1) through (B)(5).

R9-1-504. Sliding Fee Schedule Submission and Contents

A. By April 1 of each year, a provider shall submit to the Department the provider's sliding fee schedule, including:
1. 1. A sliding fee schedule with fee percentages,
2. 2. A sliding fee schedule with flat fees, or

3. 3. A sliding fee schedule with fee percentages and a sliding fee schedule with flat fees.

B. A sliding fee schedule with fee percentages shall contain:
1. 1. A statement that the sliding fee schedule applies to charges for all medical services provided to uninsured individuals by or through the provider;
2. 2. The current federal poverty guidelines;
3. 3. For an uninsured individual with a family income equal to or less than 100 percent of the current federal poverty guidelines, a 100 percent reduction; and
4. 4. For uninsured individuals with family incomes more than 100 percent of the current federal poverty guidelines but not more than 200 percent of the current federal poverty guidelines, at least three fee percentage levels that increase as family income increases.

C. A sliding fee schedule with flat fees shall contain:
1. 1. The requirements listed in subsections (B)(1) and (B)(2);
2. 2. The flat fee for each medical service or group of medical services;
3. 3. For an uninsured individual with a family income equal to or less than 100 percent of the current federal poverty guidelines, a $0 flat fee for each medical service or group of medical services included under subsection (C)(2); and
4. 4. For uninsured individuals with family incomes more than 100 percent of the current federal poverty guidelines but not more than 200 percent of the current federal poverty guidelines, at least three flat fee levels that increase as family income increases for each medical service or group of medical services included under subsection (C)(2).

R9-1-505. Sliding Fee Schedule Approval Time-frames
A. The overall time-frame described in A.R.S. § 41-1072(2) for a request for sliding fee schedule approval is 32 days.
1. 1. A provider and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame.
2. 2. An extension of the substantive review time-frame and the overall time-frame shall not exceed eight days.

B. The administrative completeness review time-frame described in A.R.S. § 41-1072(1) for a request for sliding fee schedule approval is 11 days, beginning on the day the Department receives the request.
1. 1. Except as provided in subsections (B)(3) and (B)(4), the Department shall mail to a provider a written notice of administrative completeness when the provider's request for sliding fee schedule approval is complete.
.2. If a request for sliding fee schedule approval is incomplete, the Department shall mail to the provider a written notice of administrative deficiencies that:
.a. Lists the missing documents or incomplete information, and
.b. Suspends the administrative completeness review time-frame and the overall time-frame from the date on the notice of administrative deficiencies:

i. Until the date the Department receives a complete request for sliding fee schedule approval; or
ii. For 60 days, whichever comes first.

1. 3. If the Department does not receive all the additional documents or information required under subsection (B)(1) within 60 days after the date on the notice of administrative deficiencies, the Department deems the request for sliding fee schedule approval withdrawn.

2. 4. If the Department approves a sliding fee schedule during the administrative completeness review time-frame, the Department does not issue a separate written notice of administrative completeness.

C. The substantive review time-frame described in A.R.S. § 41-1072(3) for a request for sliding fee schedule approval is 21 days, beginning on the date on the Department's notice of administrative completeness under subsection (B)(1).

1. 1. The Department shall mail to a provider a written notice granting or denying approval according to A.R.S. § 41-1076 by the last day of the substantive review time-frame and the overall time-frame.

.2. If the Department issues to a provider a written request for additional information according to A.R.S. § 41-1075(A), the request for additional information suspends the substantive review time-frame and the overall time-frame from the date on the request for additional information:

.a. Until the date the Department receives all the information requested; or

.b. For 60 days, whichever comes first.

3. If the Department does not receive all the information requested under subsection (C)(2) within 60 days after the postmark date of the request for additional information, the Department shall deny sliding fee schedule approval.

D. If a time-frame's last day falls on a Saturday, Sunday, or state service holiday listed in A.A.C. R2-5-402, the Department considers the next business day the time-frame's last day.

R9-1-506. Fees Payable by Uninsured Individuals Under a Sliding Fee Schedule

A. A provider:

1. 1. Shall not charge an uninsured individual with a family income equal to or less than 100 percent of the current federal poverty guidelines the fee determined according to subsection (C) or subsection (D), and

2. 2. May charge an individual described in subsection (A)(1) only the single administrative fee determined according to subsection (E).

B. A provider may charge an uninsured individual with a family income more than 100 percent of the current federal poverty guidelines but not more than 200 percent of the current federal poverty guidelines the fee determined according to subsection (C), subsection (D), or subsection (E).

C. If a provider uses a sliding fee schedule with fee percentages, an uninsured individual's fee for medical services shall not exceed the dollar amount calculated by applying the fee percentage for the individual's family income to the lowest contracted charge for each medical service provided.

D. If a provider uses a sliding fee schedule with flat fees, an uninsured individual's fee for medical services shall not exceed the lowest contracted charge for each medical service provided.

E. A provider may:

1. 1. Establish a single administrative fee that does not exceed $25; and

.2. Charge the administrative fee to:

.a. Uninsured individuals with a family income equal to or less than 100 percent of the current federal poverty guidelines; and

.b. Uninsured individuals with family incomes more than 100 percent of the current federal poverty guidelines but not more than 200 percent of the current federal poverty guidelines only in lieu of the fee calculated under subsection (C) or subsection (D).